



**USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 09/02/2020**

**THE CITY OF NEW YORK  
LAW DEPARTMENT**

JAMES E. JOHNSON  
*Corporation Counsel*

100 CHURCH STREET  
NEW YORK, NY 10007

LILLIAN P. WESLEY  
*Assistant Corporation Counsel*  
(212)356-2079  
lwesley@law.nyc.gov

September 1, 2020

**VIA ECF**

Hon. Katharine H. Parker  
United States Magistrate Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312

**MEMO ENDORSED**

Re: *Donohue, et al. v. New York City Department of Education,*  
20-CV-1942 (ALC) (KHP)

Dear Judge Parker:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel and the attorney for the New York City Department of Education (“Department” or “DOE”) in the above-referenced action. Pursuant to Your Honor’s Order, dated June 1, 2020 (ECF No. 11), I write on behalf of all parties concerning the case management plan.

As a brief background, this case arises under the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400 *et seq.* By Complaint dated March 4, 2020, Plaintiffs—Patrick Donohue (“Parent”), individually and on behalf of his daughter S.J.D., a student who has been classified with a disability (“Student”—seek the vacatur of an administrative decision issued by the New York State Education Department’s Office of State Review (“SRO decision”) which found, *inter alia*, that equitable considerations warranted a 25 percent reduction of the tuition reimbursement award and other costs associated with the Student’s education for the 2018-2019 school year. The Department filed its Answer on May 18, 2020 (ECF No. 9). The initial pretrial conference is currently scheduled for September 8, 2020 at 2:30 p.m.

The parties jointly request that this Court adjourn the initial pretrial conference *sine die*, as there is no dispute concerning the material facts, and a copy of the certified SRO record has been provided to Plaintiffs’ counsel and subsequently filed under seal with the Court (ECF No. 14). The parties also have conferred and agree that this matter may proceed without discovery and, therefore, a case management plan providing for such is not necessary.

The parties therefore jointly propose that this Court forego the requirement of a case management plan and instead endorse the following briefing schedule in connection with the parties' anticipated motion and cross-motion for summary judgment:

- Plaintiffs to file their motion for summary judgment by October 2, 2020
- Defendant to file its opposition papers and its cross-motion by October 30, 2020
- Plaintiffs to file their reply/opposition papers by November 6, 2020
- Defendant to file its reply papers by November 20, 2020

Lastly, the parties have reviewed Your Honor's and Judge Carter's Individual Rules and Practices and are aware that a pre-motion conference is required. The parties respectfully request that this requirement be waived for the reasons set out above.

Thank you for your consideration of these requests.

Respectfully submitted,

*/s Lillian Philomena Wesley*

Lillian P. Wesley  
Assistant Corporation Counsel

*/s Karl Ashanti*

Karl Ashanti, Esq.  
Attorney for Plaintiffs

**The proposed briefing schedule is hereby adopted. The Initial Pre-Trial Conference scheduled for September 8, 2020 at 2:30 p.m. is adjourned sine die.**

**SO ORDERED:**

*Katharine H. Parker*

HON. KATHARINE H. PARKER  
UNITED STATES MAGISTRATE JUDGE

09/02/2020